



200 Independence Avenue SW
Washington, DC 20201

July 22, 2011

Susan E. Voss
Commissioner of Insurance
Iowa Insurance Division
330 Maple Street
Des Moines, IA 50319-0065

Re: State of Iowa's Request for Adjustment to Medical Loss Ratio Standard

Dear Commissioner Voss:

This letter responds to the request of the Iowa Insurance Division ("IID"), pursuant to section 2718 of the Public Health Service ("PHS") Act, 42 U.S.C. §300gg-18, for an adjustment to the 80 percent medical loss ratio ("MLR") standard applicable to the individual health insurance market in Iowa. The IID has requested an adjustment of that standard to 60 percent for the reporting year 2011, 70 percent for reporting year 2012, and 75 percent for reporting year 2013.

Section 2718 was added to the PHS Act by Section 1001 of the Affordable Care Act ("ACA") and requires issuers in the individual market to spend at least 80 percent of premium dollars on reimbursement for clinical services and for activities that improve health care quality for enrollees. Beginning in 2011, if an issuer does not satisfy the MLR standard, it is required to provide rebates to enrollees.

Section 2718 permits an adjustment to the 80 percent MLR standard for a State's individual health insurance market if it is determined that applying this standard "may destabilize the individual market in such State." The regulation implementing section 2718, 45 CFR Part 158, provides that an adjustment should be granted "only if there is a reasonable likelihood" that application of the 80 percent MLR standard will destabilize the particular State's individual health insurance market (45 CFR §158.301). The regulation also provides the criteria the Secretary may consider "in assessing whether application of an 80 percent MLR . . . may destabilize the individual market in a State that has requested an adjustment" (45 CFR §158.330). These criteria are discussed in Part III of this letter.

The Center for Consumer Information and Insurance Oversight ("CCIIO") within the Centers for Medicare and Medicaid Services ("CMS") has reviewed the IID's application, as well as the supplemental information provided to us in response to questions raised by the

application and the public comments filed with regard to the application.¹ After a careful examination of these materials and consideration of the criteria set forth in the statute and implementing regulation, we have determined that although application in 2011 of the 80 percent MLR standard in Iowa may lead to the destabilization of the individual market, the adjustment sought by the IID exceeds that which is necessary to avoid the likelihood of market destabilization between now and 2014 and, therefore, would deny consumers some of the benefits of section 2718. Consequently, we have determined to adjust the MLR standard in the Iowa individual market to 67 percent for 2011 and 75 percent for 2012; the statutory standard of 80 percent will apply beginning 2013. This letter explains the basis of our decision.

I. Summary of the Iowa Application

CCIIO received the IID's request for an adjustment to the MLR standard on March 21, 2011. Among the information that the IID provided were composite enrollment and premium figures for the Iowa individual health insurance market that the IID compiled from information received from issuers it surveyed, as well as the aggregate estimated rebate for all issuers offering coverage in the Iowa individual market for each of the reporting years 2011, 2012, and 2013, under the 80 percent MLR standard and under the IID's proposed adjustment.

On April 19, 2011, CCIIO requested from the IID information needed in order for Iowa's application to be deemed complete. These requests included information for each issuer in the Iowa individual market, rather than information on an aggregate basis. That same day, CCIIO also requested from the IID follow-up information regarding matters raised by the IID's application. After the IID responded to these requests, the IID's application was deemed complete on May 27, 2011. The 30-day application processing period provided for in 45 CFR §158.345(a) began as of May 27, 2011.

In addition, on May 27, 2011, CCIIO noted on its website that any public comments regarding Iowa's application were due by June 6, 2011, as provided in 45 CFR §158.342. CCIIO received one public comment, which we also address in this letter.

On June 6, 2011, the IID provided the clarifications to its May 6 responses that CCIIO had requested in CCIIO's May 27 letter. The IID included with its letter financial information for each issuer that offered coverage to more than 300 enrollees in the Iowa individual market. On June 24, 2011, CCIIO informed the IID that it would extend the review period for up to an additional 30 days, as provided in 45 CFR §158.345(b).

II. Overview of the Iowa Individual Health Insurance Market

According to the IID's application, more than 182,000 Iowa residents obtained health insurance coverage through Iowa's individual health insurance market as of December 31, 2010. Fifty-six issuers participate in Iowa's individual market, of which seven account for 95 percent

¹ All of the documents and information described in this letter are posted on CCIIO's website at http://cciiio.cms.gov/programs/marketreforms/mlr/mlr_iowa.html unless otherwise footnoted.

of the market. These seven issuers are: (1) Wellmark, Inc (“Wellmark”); (2) Time Insurance Company (“Time”); (3) Golden Rule Insurance Company (“Golden Rule”); (4) Coventry Health Care of Iowa (“Coventry”); (5) American Family Mutual Insurance Company (“American Family”); (6) American Republic Insurance Company (“American Republic”); and (7) Reserve National Insurance Company (“Reserve”).

According to the IID’s application, the number of enrollees and market shares of the seven largest issuers as of December 31, 2010 are:

Table 1: Iowa Individual Market Issuers’ 2010 Enrollees and Market Share

	Issuer	Enrollees	Market Share²
1.	Wellmark	148,913	83.6%
2.	Time	8,196	4.6%
3.	Golden Rule	8,185	3.3%
4.	Coventry	5,116	1.4%
5.	American Family	1,482	1.1%
6.	American Republic	1,185	0.7%
7.	Reserve	1,052	0.4%
	TOTAL OF 7 LARGEST ISSUERS	174,129	95.2%

Table 1 supports the IID’s assessment, made in its May 6 response to CCIIO’s April 19 follow-up letter, that “Iowa’s individual marketplace resembles other states in that market share is concentrated among few carriers, some of which hold a significant portion of the market with the remainder spread among carriers that are smaller, more local or regional.”

Pursuant to Iowa Administrative Code 191-36.10, Iowa uses an anticipated loss ratio of 50 to 60 percent (depending on the type of renewal clause) as part of the rate approval process. According to the IID, the Iowa anticipated loss ratio is calculated as the ratio of incurred claims to earned premiums and, in contrast to the Affordable Care Act’s MLR standard, does not include adjustments for quality improving activities, taxes, or credibility. As we read Iowa Administrative Code 191-36.10, it does not require MLR-related rebates for individual comprehensive major medical policies.

According to the IID’s application, Iowa does not impose any requirements or sanctions on issuers that wish to withdraw from the Iowa individual health insurance market.

The Iowa individual market has, according to the IID’s application, a high-risk pool. The IID states that the high-risk pool provides guaranteed issue coverage to HIPAA-eligible Iowa residents and Iowa residents with qualifying medical conditions who have been denied coverage in the individual market. These features are discussed in more detail in Part III below.

² The IID calculates market share based on earned premium; we have used the data provided by the IID.

III. Application of Regulatory Criteria to the Iowa Individual Market

Title 45 CFR §158.330 lists six criteria that the Secretary may consider “in assessing whether application of an 80 percent MLR ... may destabilize the individual market in a State.” They are:

- a) The number of issuers reasonably likely to exit the State or to cease offering coverage in the State absent an adjustment to the 80 percent MLR and the resulting impact on competition in the State;
- b) The number of individual market enrollees covered by issuers that are reasonably likely to exit the State absent an adjustment to the 80 percent MLR;
- c) Whether absent an adjustment to the 80 percent MLR standard consumers may be unable to access agents and brokers;
- d) The alternate coverage options within the State available to individual market enrollees in the event an issuer exits the market;
- e) The impact on premiums charged, and on benefits and cost-sharing provided, to consumers by issuers remaining in the market in the event one or more issuers were to withdraw from the market; and
- f) Any other relevant information submitted by the State’s insurance commissioner, superintendent, or comparable official in the State’s request.

The preamble to the regulation provides that 45 CFR §158.330 “does not set forth a single test” for determining whether application of an 80 percent MLR standard may destabilize the individual market in a State, but rather lists the “main criteria” to be considered in assessing such risk. 75 Fed. Reg. 74887 (Dec. 1, 2010).

A. Number of issuers reasonably likely to exit the State

Although no issuers in the Iowa individual health insurance market have provided notice of exit, the IID is concerned about the possible exit of some of its smaller issuers. In its cover letter, the IID states that the Iowa individual market has “one dominant carrier which already meets the 80% loss ratio” and “a number of smaller carriers which need time to adjust their business models to comply with the minimum loss ratio.” In its May 6 letter responding to CCIIO’s requests for clarification, the IID explains that these smaller carriers “have significant history in Iowa and have played an important role in sustaining Iowa’s economy,” and that “[w]ithout an adjustment to the MLR standard, some of these smaller but significant carriers will likely exit the marketplace.” The IID declines to name those issuers.³ In its June 6 letter, however, the IID indicates that there are “at least one but no more than three” such issuers.

³ Page 2 of the IID’s May 6 letter responding to CCIIO’s April 19 letter requesting clarification states that “IID is unable to publicly disclose the names of such smaller carriers.”

As shown in Table 1, above, Wellmark is the dominant issuer to which the IID refers. According to the IID's application, Wellmark had MLRs well in excess of 80 percent in 2007-2010, and provides coverage to 148,913 enrollees in the Iowa individual health insurance market, with a market share of 83.6 percent.

With regard to the impact of an 80 percent MLR standard on the smaller issuers, the IID focuses upon multi-year agent commission and provider contracts as the source of the problem for these issuers, including those with fewer than 1,000 enrollees. On page 3 of its application, the IID states that its proposed adjustment will provide for a transition period "to allow smaller carriers time to change current business models in order to compete with larger carriers." The IID further explains that "[c]arriers have already entered into binding, multi-year agent commission agreements and provider contracts." The IID adds that "[f]or larger carriers with credible blocks of business this is not a concern as they have sufficient business to offset the restriction on agent commissions, but for smaller carriers in Iowa, who are on the cusp of credibility or who are seeking to grow their current block beyond credibility, the 80% MLR will have a crippling effect on their business model." In its May 6 response to CCIIO's April 19 follow-up letter, the IID clarifies that "the practical impact of such agreements and contracts is that carriers are estopped from reopening those agreements and negotiating more favorable terms which would enable the carriers to substantially satisfy the 80 percent MLR standard."

Under 45 CFR Part 158, an issuer's experience in a State's individual health insurance market is not credible, and hence the issuer is not subject to rebates unless it offers coverage to at least 1,000 enrollees in that market during the reporting year. According to the IID's application, 49 out of 56 issuers in the Iowa individual market offered coverage to fewer than 1,000 enrollees as of December 31, 2010. Thirty-six of these 49 issuers offered coverage to fewer than 300 enrollees, and thus were far from reaching credibility, as defined by 45 CFR §158.230.

The remaining 13 issuers offered coverage to between 300 and 1,000 enrollees each: (1) Celtic (323 enrollees); (2) World (329 enrollees); (3) Mid West (354 enrollees); (4) Metropolitan Life (373 enrollees); (5) Pekin (400 enrollees); (6) American Community (462); (7) American National (485 enrollees); (8) New York Life (537 enrollees); (9) Humana (638 enrollees); (10) John Alden (730 enrollees); (11) Coventry Health & Life (820 enrollees); (12) MEGA (909 enrollees); and (13) Freedom Life (985 enrollees). We note that, according to the Supplemental Health Care Exhibits ("SHCEs") that issuers file with the National Association of Insurance Commissioners ("NAIC"), nine of these 13 issuers had preliminary MLRs (before credibility adjustments that could raise their MLRs by up to 8.3 percent) of over 75 percent, and thus would be unlikely to be affected by the rebate provisions. The IID did not identify which, if any, of these 13 issuers have "entered into binding, multi-year agent commission agreements and provider contracts" and "are seeking to grow their current block" of business in the Iowa individual market. However, two of these issuers had close to 1,000 enrollees, and could be expected to be subject to rebate requirements in 2011: MEGA and Freedom Life. According to their SHCEs, MEGA had a preliminary MLR of 84 percent and Freedom Life had a preliminary MLR of 66 percent in 2010. Due to their small size, these issuers would likely receive large credibility adjustments that would substantially increase their MLRs. Furthermore, on their SHCEs, MEGA reported commissions that were relatively low at 3 percent of total earned premium, and Freedom Life reported negative commissions. Therefore, it is difficult to conclude

that the IID's concern that "the 80% MLR will have a crippling effect on their business model" due to these issuers having entered into "binding, multi-year agent commission agreements and provider contracts" extends to MEGA and Freedom.

As noted above, the IID indicates that "at least one but no more than three" issuers that offer coverage to at least 1,000 enrollees each "will likely exit the market without an adjustment to the MLR standard." As required by 45 CFR §158.321(d)(2)(iii), the IID provided the estimated MLRs of each issuer in the Iowa individual market that insures more than 1,000 enrollees, based on the MLR definition in the ACA and implementing regulation. The 2010 estimated MLRs are an imperfect proxy for the actual results issuers may generate if held to the 80 percent standard in 2011. One reason for this is that the ACA was enacted at the close of the first quarter of 2010, presumably after pricing and other business decisions impacting MLRs had largely been made and implemented, and issuers therefore did not have the opportunity to make operational adjustments to accommodate the new law. Another reason historical data may constitute an imperfect proxy is that there can be year-to-year variability in issuers' claims experience, financial performance, and reported MLRs. Notwithstanding these limitations, the historical data remain the best available basis upon which to estimate the impact of the 80 percent standard in 2011.

The IID's estimates of MLRs of the seven largest issuers in the Iowa individual market are shown in the chart below.

Table 2: Iowa's Estimate of 2010 Federal Medical Loss Ratios⁴

	Issuer	MLR Before Credibility Adjustment	Credibility Adjustment⁵	MLR After Credibility Adjustment
1.	Wellmark	91.8%	0.0%	91.8%
2.	Time ⁶	70.3%	3.0%	73.3%
3.	Golden Rule	65.0%	3.0%	68.0%
4.	Coventry	57.7%	3.7%	61.4%
5.	American Family	79.8%	7.3%	87.1%
6.	American Republic	40.2%	7.9%	48.1%
7.	Reserve	64.6%	8.2%	72.8%

According to the 2010 MLR data shown above, it appears that two of the largest issuers in the Iowa individual market, Wellmark and American Family, meet the 80 percent MLR standard.

⁴ These data are provided by the IID and appear to be calculated based on data from 2010 SHCEs.

⁵ The IID's initial application did not include credibility adjustment estimates in calculation of MLRs and rebates as required under 45 CFR §158.232(b)(2). In its June 6, 2011 letter to CCHIO, the IID has confirmed the accuracy of the credibility adjustment estimates shown in Table 2. The estimates shown in Table 2, do not include deductible factors provided under 45 CFR §158.232(c), and therefore likely understate the credibility adjustments available to issuers.

⁶ Time's MLR was updated to reflect the data from its latest 2010 SHCE provided with IID's June 6, 2011 letter.

Five of the largest issuers in the Iowa individual market are expected to have MLRs below the 80 percent standard in 2011: Time; Golden Rule; Coventry; American Republic; and Reserve. However, according to the IID's application, Time does not expect to owe rebates in 2011-2013. The remaining four issuers must adjust some combination of their operations and financial targets in order to satisfy an 80 percent MLR standard. In its basic form under the ACA and implementing regulation, the MLR is the ratio of monies spent on incurred claims and quality improvement activities to premium revenue (as adjusted for certain State and Federal taxes and fees). See 45 CFR §158.221. Therefore, these four issuers would either need to lower premiums or increase expenditures on claims or quality improving activities, or otherwise risk paying rebates to enrollees. Either of these actions could lead to deterioration in profitability, which is likely a key consideration for each company in assessing whether to remain in the Iowa individual market. Indeed, the IID has indicated that at least one but no more than three of these issuers have already entered into binding, multi-year agent commission agreements and provider contracts, and will likely exit the market unless an adjustment to the MLR standard gives them time to adjust their business models. We note that, according to the SHCEs provided by the IID, Golden Rule, Coventry, and American Republic have relatively high commissions, ranging from 9 to 18 percent of total earned premium.

The chart below shows, for the seven largest issuers in the Iowa individual market, the issuer's estimated rebate based on 2010 MLRs, estimated 2010 pre-tax net gain in the individual market before payment of rebates, and estimated 2010 pre-tax net gain in the individual market if the issuer would have had to pay rebates in 2010.⁷

Table 3: Estimated 2010 Rebates and Pre-Tax Net Gain (\$ in millions)

	Issuer	Estimated Rebates⁸	Pre-Tax Net Gain Before Rebates	Pre-Tax Net Gain After Rebates
1.	Wellmark	\$0	(\$32.2)	(\$32.2)
2.	Time	\$1.6	(\$2.4)	(\$3.9)
3.	Golden Rule	\$1.7	\$2.9	\$1.2
4.	Coventry	\$1.2	\$0.4	(\$0.9)
5.	American Family	\$0	(\$0.2)	(\$0.2)
6.	American Republic	\$1.0	\$0.6	(\$0.4)
7.	Reserve	\$0.1	(\$0.1)	(\$0.2)

Of the four issuers expected to owe rebates in 2011 – Golden Rule, Coventry, American Republic, and Reserve – only Golden Rule would be expected to remain profitable after payment of rebates. (Reserve was already unprofitable before subtracting the amount of rebates from profits). Even for Golden Rule, rebates would consume more than half of its pre-tax net gains in Iowa. This analysis presumes certain facts, most notably the continuation of current financial performance; that may change in 2011. Nonetheless, the impact on the financial performance of

⁷ "Pre-tax net gain" is the net gain or loss as reported in the SHCE plus any Federal, State, or other taxes and fees paid.

⁸ The IID's rebate calculations based on 2010 SHCEs, provided with the IID's May 6 letter, appear to deviate from the formula set forth in 45 CFR §§158.221-232. The rebate estimates shown in Table 3 use the correct formula and the MLRs provided by the IID, except for Reserve, which did not file a SHCE. CCHIO's total rebate estimate of \$5.6 million is consequently \$0.5 million higher than the IID's estimate.

the four issuers expected to owe rebates in 2011 supports the IID's concern that an immediate implementation of the 80 percent standard could lead to market destabilization.

Statutory capital considerations may also bear on the likelihood of withdrawal from the individual market. As provided in the IID's response to 45 CFR §158.321(d)(2)(viii), Wellmark, Time, Golden Rule, Coventry, American Family, American Republic, and Reserve have RBC levels of 784 percent, 595 percent, 654 percent, 515 percent, 854 percent, 1686 percent, and 992 percent, respectively, well above the 200 percent minimum threshold a company must reserve without triggering required company or regulatory action. The IID does not specifically address these issuers' strong RBC levels with regard to potential losses from the implementation of the MLR standard in 2011.

B. Number of enrollees covered by issuers that are reasonably likely to exit the State

As stated above, the IID does not identify any specific issuer expected to be subject to the MLR rebate requirement in 2011 as reasonably likely to exit the State. The IID instead expresses concern that at least one, but no more than three, smaller but significant issuers that each insure more than 1,000 enrollees, will likely exit the market without an adjustment to the MLR standard. The IID declined to identify these issuers.

Iowa's largest issuer in the individual market, Wellmark, has a market share of 83.6 percent. As discussed in Part A above, two of the smaller issuers, American Family and Time, are not expected to be affected by the rebate requirements in 2011 and thus are not reasonably likely to exit Iowa. The remaining four smaller issuers that each insure more than 1,000 enrollees and are projected by the IID to owe rebates are Golden Rule, Coventry, American Republic, and Reserve. These four issuers have a combined market share of 5.8 percent. The smallest of these four issuers is Reserve, insuring 1,052 enrollees, or 0.4 percent of the market. The three largest issuers of these four – Golden Rule, Coventry, and American Republic – insure a combined total of 14,486 enrollees, or 5.4 percent of the market. Therefore, the number of enrollees covered by issuers that the IID believes will likely exit the State may fall between 1,052 and 14,486.

C. Consumers' ability to access agents and brokers

The IID did not address the impact of the 80 percent individual market MLR standard on consumers' ability to access agents and brokers in Iowa. Since the IID did not raise the issue, we assume that this is not of concern to the IID. CCHIO received one public comment noting that data recently provided by the National Association of Health Underwriters ("NAHU") to the NAIC demonstrate that percentage commissions have not been cut in the individual market in Iowa, and further suggesting that consumers should not have difficulty accessing agents and brokers.

D. Alternate coverage options

Again, while the IID does not identify any specific issuer expected to be subject to the MLR rebate requirement in 2011 as reasonably likely to exit the State, the IID is concerned that

one to three issuers, other than Wellmark, will likely exit the market absent an adjustment to the MLR standard. There is no indication that Time, Golden Rule, Coventry, American Family, American Republic, or Reserve offer unique products, or that remaining issuers in the Iowa individual health insurance market would be unwilling or unable to provide enrollees of the exiting issuers with comparable products, at comparable prices, to what the enrollees presently receive from their issuers.

The IID did not express a concern that in the event issuers do exit the Iowa individual market, policyholders with pre-existing conditions may have difficulty obtaining new coverage. The IID indicated in its application that Iowa has a mechanism to provide options to consumers in the event an issuer withdraws from the Iowa individual health insurance market. That is the State-operated high risk pool, the Iowa Comprehensive Health Association (“HIPIOWA”).

HIPIOWA provides health plans to federally eligible individuals or individuals with qualifying medical conditions who have been unable to obtain coverage in the individual market. HIPIOWA offers a PPO product with deductibles ranging from \$1,000 up to \$10,000. The benefits provided are commensurate with benefits being offered in the individual market, including continuous enrollment with annual renewal. There is a 6 month pre-existing condition exclusion that is waived for HIPAA eligible individuals or individuals with prior creditable coverage. As of December 2010, 3,154 persons were enrolled in HIPIOWA.

E. Impact on premiums, benefits, and cost-sharing of remaining issuers

The IID did not address the impact on premiums charged, or benefits or cost-sharing provided, to consumers by issuers remaining in the Iowa individual health insurance market if application of the 80 percent individual market MLR standard causes one or more issuers to leave the market. Since the IID did not raise the issue, we assume that this is not of concern to the IID.

F. Other relevant information submitted by the State

The IID’s estimates of rebates that issuers will owe in 2011-2013 unless they adjust their business models are:

Table 4: Estimated 2011-2013 Rebate Requirement (\$ in millions)

Issuer	2011		2012		2013	
	80% MLR	60% MLR	80% MLR	70% MLR	80% MLR	75% MLR
Wellmark	\$0	\$0	\$0	\$0	\$0	\$0
Time	\$0	\$0	\$0	\$0	\$0	\$0
Golden Rule	\$1.7	\$0	\$0.1	\$0	not provided	\$0
Coventry	\$1.0	\$0	\$0.3	\$0	\$0	\$0
American Family	\$0	\$0	\$0	\$0	\$0	\$0
American Republic	\$1.2	\$0.6	\$1.0	\$0.6	\$0.7	\$0.6

Reserve	\$0.1	not provided	\$0.2	not provided	\$0.2	\$0.1
TOTAL	\$4.0	\$0.6	\$1.6	\$0.6	\$0.9	\$0.7

The total amount of rebates the IID expects consumers to receive in 2011-2013 if the issuers offering coverage in the Iowa individual market had to meet an 80 percent MLR standard in each of those years is \$6.5 million. The total amount of rebates that consumers would receive under the IID's proposed adjustment to the MLR standard is \$1.9 million. Therefore, granting the IID's request could deprive consumers of an estimated \$4.6 million in rebates.

IV. Summary of Public Comment

CCIIO received one public comment from five consumer organizations and a union in connection with the IID's request for an adjustment to the MLR standard, which is posted on the CCIIO website at http://cciio.cms.gov/programs/marketreforms/mlr/mlr_iowa.html. The commenters oppose the IID's request and offer their views on why the IID's application does not satisfy the criteria provided in Title 45 CFR Part 158 for granting an adjustment to the MLR standard applicable to a State's individual health insurance market.

The commenters suggest that there is evidence that issuers in the Iowa individual market may have flexibility in adjusting agent and broker compensation. Specifically, the commenters refer to the data provided by NAHU to the NAIC, which shows that "at least one carrier has moved from a percentage commission to a per member per month compensation formula."

The commenters also assert that granting an adjustment to a 60 percent MLR standard in 2011 could effectively be lower than Iowa's current State minimum MLR range of 55 – 60 percent because, unlike the MLR formula prescribed by Title 45 CFR Part 158, Iowa's State MLR standard does not take into account the impact on MLR of taxes and fees, quality improvement expenses, and the credibility adjustment, which likely increase an issuer's MLR. The commenters suggest that the data submitted by Iowa in its application support adjustment of MLR standards to no less than 70 percent in 2011, 75 percent in 2012, and 80 percent in 2013.

V. Conclusion

As described at the outset of this letter, section 2718 of the PHS Act permits the Secretary to adjust the 80 percent standard in the individual market if it is determined that applying this standard "may destabilize the individual market in [the] . . . State." The regulation implementing section 2718, 45 CFR Part 158, provides that an adjustment should be granted "only if there is a reasonable likelihood" that application of the 80 percent MLR standard will destabilize the particular State's individual health insurance market (§158.301).

In this case, we agree with the IID and conclude that there is a reasonable likelihood that immediate implementation of an 80 percent MLR standard may destabilize the Iowa individual market. Specifically, we recognize that application of an 80 percent standard in 2011 could

cause issuers that will be subject to rebate requirements to incur losses in the Iowa individual market, and could lead these issuers to withdraw from that market, assuming 2011 experience mirrors 2010 experience. Of particular concern are Coventry and American Republic, which would incur losses even if a 75 or 70 percent MLR standard were applied in 2011 based on 2010 data. Furthermore, the fact that Golden Rule, Coventry, and American Republic report relatively high commissions supports the IID's concern that some of these issuers have entered into binding, multi-year agent commission agreements. These issuers will require time to adjust their business models to meet an 80 percent MLR standard without a significant negative impact on their financial performance. Because Iowa does not impose any sanctions on issuers that wish to withdraw from its individual market, there would be nothing to inhibit or discourage these issuers from withdrawing and leaving up to 14,486 enrollees temporarily without coverage.

While we agree with the IID that implementation of an 80 percent MLR standard in 2011 may risk destabilizing the Iowa individual market, we do not agree that an adjustment to 60 percent in 2011, 70 percent in 2012, and 75 percent in 2013 is necessary. Rather, we agree with the consumer groups' public comment that the IID's proposal to adjust the MLR to such a low number in 2011, and to delay full implementation of the 80 percent statutory standard until 2014, overcompensates for the general risk of destabilization asserted by the IID.

This is due in part to the fact that five of the seven largest issuers in the Iowa individual market had 2010 MLRs that were already above 67 percent, including Wellmark with an 83.6 percent market share. Additionally, nine of the 13 issuers that offered coverage to between 300 and 1,000 enrollees had 2010 MLRs (without adding credibility adjustments) of over 75 percent. Of the only two issuers that had very low MLRs and are expected to owe rebates in 2011, one, Coventry, should be able to avoid incurring losses at an MLR standard of 67 percent. The other, American Republic, had a 2010 MLR of 48 percent and would be required to pay some rebates in 2011 even under the IID's proposed adjusted standard of 60 percent. The IID's expectation that issuers with particularly low MLRs could tolerate some rebate payments without exiting the market supports the conclusion that starting the MLR standard at 67 percent and increasing it gradually over a three year period will not substantially increase the likelihood of market destabilization.

Consequently, we believe, based on the information provided by the IID, that establishing an MLR standard of 67 percent for 2011 and 75 percent for 2012, with the 80 percent standard to apply beginning 2013, reasonably addresses the risk of destabilization set out in the application. An adjustment to the MLR standard in 2011 and 2012 mitigates the risk of market destabilization while preserving for consumers the intended benefits of section 2718. This approach, which creates a glide path for compliance with the 80 percent standard, balances the interests of consumers, the State, and the issuers in accordance with the principles underlying section 2718.

Accordingly, pursuant to section 2718(b)(1)(A)(ii) of the PHS Act (42 U.S.C. §300gg-18(b)(1)(A)(ii)), the MLR standard applicable to the Iowa individual health insurance market is adjusted to 67 percent for the MLR reporting year 2011, and to 75 percent for MLR reporting year 2012. The 80 percent statutory standard will apply in MLR reporting year 2013 and thereafter.

Pursuant to 45 CFR §158.346, the IID may request reconsideration of the determination issued in this letter. A request for reconsideration must be submitted in writing within ten days of the date of this letter to MLRAdjustments@hhs.gov, and may include any additional information in support of such request. A determination on a request for reconsideration will be issued within 20 days of the receipt of the request.

Please contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. B. Larsen', with a stylized, cursive script.

Steven B. Larsen
Deputy Administrator and Director,
Center for Consumer Information
and Insurance Oversight